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11 July 2008
HUESCHEN AND SAGE

Michael N. SAGE
Dated: 11 July 2008

SERVIER 435 PCT

Applicant : Tony VERBEUREN, Gilbert LAVIELLE, Bernard
CIMETIERE, and Marie-Odile VALLEZ

Serial No. : 10/509,605

Filed : September 27, 2004

Title : ASSOCIATION OF AN ANTITHROMBOTIC AND
ASPIRIN

Art Unit : 1617

Examiner : Sahar JAVANMARD, Esq.

Honorable Commissioner for Patents
PO Box 1450
Alexandria, VA 22313

PETITION FROM A REQUIREMENT FOR RESTRICTION

UNDER 37 CFR §§ 1.144 and 1.181

Sir:

The Applicants respectfully hereby submit this Petition from a Requirement for Restriction. The instant application was filed on September 27, 2004 as a US National Stage Application of International Application No. PCT/FR03/01054. The application has been assigned to Examiner Sahar JAVANMARD for examination.

On February 26, 2008, the Office issued an Office Action, a Restriction Requirement, wherein the Office determined that the claims of the instant application lack unity of invention and consist of two (2) distinct inventions: **Group I**, drawn to compositions, and **Group II**, drawn to a method of treatment. The Office alleged that the above-defined Restriction Groups do not relate to a single inventive concept because there is no common special technical feature between the two Restriction Groups which defines a contribution over the prior art. The Office stated that the compound of formula I cannot be considered a special technical feature because it has been disclosed in US Patent No. 5,472,979.

The Applicants timely responded to the Office Action on March 26, 2008, refuting the Restriction Requirement and electing **Group I with traverse**. The Office deemed the Restriction Requirement proper and made in Final in the Office Action issued on May 14, 2008. The instant Petition requests reconsideration and withdrawal of this arbitrary and capricious Restriction Requirement based on the following.

As noted above, in the Restriction Requirement dated February 26, 2008, the Office alleged that Restriction **Groups I and II** lacked unity of invention because there was no common technical feature linking the two inventions which defined a contribution over the prior art, as the Office arbitrarily defined the common special technical feature as a compound of instant formula (I), which compound the Office stated was disclosed in US Patent No. 5,472,979. In making the Restriction Requirement Final, the Office now states that the instant claims lack a common special technical feature because the special technical feature of **Group I** is a "composition comprising compound A and aspirin" and the special technical feature of **Group II** is a "method of using said composition" and that the composition and method of using said composition are "different."

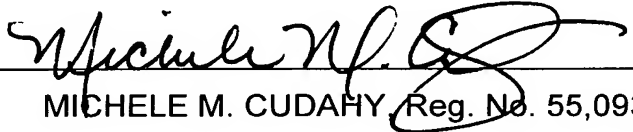
The Applicants respectfully submit that, according to 37 CFR 1.475(b)(2), a national stage application having claims to a product and process of use of said product will be considered to have unity of invention. Moreover, as the instantly claimed **combination** of a compound of formula (I) **and** aspirin has not been identified in the

art by the Office, the instantly claimed combination is the special technical feature which defines a contribution over the prior art. Thus, the Office may not require restriction between the instantly claimed combination and a method of using the instantly claimed combination.

The Applicants respectfully request the reconsideration of the Restriction Requirement and withdrawal thereof and, upon favorable review, reinstatement of non-final status should any insignificant obstacles to patentability remain.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

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